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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 MAGDALY ORTIZ-MORALES,)

No. C 07-4759-WHA

13 Petitioner,)

14 v.)

15 MICHAEL CHERTOFF; ALBERTO R.)
GONZALES; NANCY ALCANTAR;)
16 LOU BLANAS,)

DECLARATION OF YAKOV GRINBERG

17 Respondents.)
18

19 I, YAKOV GRINBERG, DECLARE AS FOLLOWS:

20 1. I am a Supervisory Detention and Deportation Officer for Detention and Removal
21 Operations for the United States Immigration and Customs Enforcement ("ICE") in San Francisco,
22 California. In that capacity, I have direct knowledge of this case, have reviewed the petitioner's A
23 File, and can attest as follows.

24 2. The petitioner, Magdaly Ortiz-Morales (A94-350-081 and A70-291-383), is a native and
25 citizen of Honduras was ordered deported *in absentia* by an Immigration Judge in Harlingen,
26 Texas, on November 1, 1989. A true and correct copy of the Immigration Judge's deportation
27 order is attached as Exhibit A.

28 3. The petitioner did not appear for deportation and she was arrested by the United States

DECLARATION OF YAKOV GRINBERG
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1 Immigration and Customs Enforcement (ICE) arrested on January 17, 2007.

2 4. The petitioner is being detained by ICE at the Santa Clara County Jail.

3 5. While in detention, the petitioner filed a motion to reopen her deportation proceedings,
4 arguing that she did not receive proper notice of her deportation hearing. A true and correct copy
5 of the petitioner's motion to reopen is attached as Exhibit B.

6 6. The Immigration Judge denied the petitioner's motion to reopen her deportation on April 9,
7 2007. A true and correct copy of the Immigration Judge's order is attached as Exhibit C.

8 7. The Board of Immigration Appeals (BIA) affirmed the Immigration Judge's denial of the
9 motion to reopen on June 21, 2007. In the order, the BIA denied the petitioner's request to reopen
10 to apply for asylum under 8 U.S.C. § 1158 and cancellation of removal under 8 U.S.C. § 1229b. A
11 true and correct copy of the BIA's June 21, 2007 decision is attached as Exhibit D.

12 8. The United States Court of Appeals for the Fifth Circuit denied the petitioner's motion for a
13 stay of deportation on August 15, 2007. A true and correct copy of the petitioner's motion for a
14 stay of deportation and Fifth Circuit's docket sheet, reflecting that the motion for a stay of
15 deportation was denied on August 15, 2007, is attached as Exhibit E.

16 9. The petitioner filed a motion to reconsider with the BIA, asking the BIA to reconsider its
17 June 21, 2007 decision. A true and correct copy of the petitioner's motion to reconsider is
18 attached as Exhibit F.

19 10. On September 7, 2007, the BIA denied the petitioner's motion to reconsider its June 21,
20 2007 order. In the order, the BIA denied the petitioner's request to *sua sponte* reopen her
21 deportation proceedings to apply for Temporary Protected Status (TPS), concluding that she failed
22 to establish eligibility for that form of relief. A true and correct copy of the BIA's September 7,
23 2007 decision is attached as Exhibit G.

24 11. The ICE was set to remove the petitioner to Honduras on July 13, 2007, but was prevented
25 from doing so due to the pendency of the petitioner's motion to reopen her *in absentia* deportation
26 proceeding.

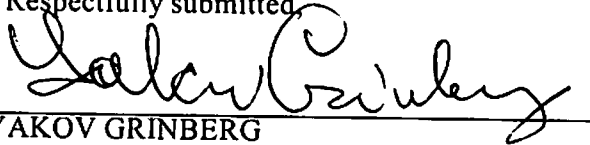
27 12. In light of the fact that the Immigration Judge has denied the motion to reopen the
28 petitioner's *in absentia* deportation proceeding, the BIA has affirmed that denial, the BIA has

1 denied the petitioner's motion to reconsider, and the United States Court of Appeals for the Fifth
2 Circuit has denied the petitioner's motion for a stay of removal, the ICE intends to re-new the
3 petitioner's travel document and remove the petitioner to Honduras imminently.

4 13. The ICE voluntarily agrees not to remove the petitioner at any point prior to October 19,
5 2007.

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7 Dated: September 21, 2007

Respectfully submitted,

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10 YAKOV GRINBERG
11 Supervisory Detention and Deportation Officer
12 Detention and Removals
13 United States Immigration and Customs Enforcement
14 San Francisco, California
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